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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-------------------------|---------------------|------------------|
| 09/926,763 | 05/20/2002 | Dianne Beverley Croteau | 10748-006 | 3008 |

1059 7590 05/02/2003

BERESKIN AND PARR
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TORONTO, ON M5H 3Y2
CANADA

EXAMINER

NELSON JR, MILTON

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3636

DATE MAILED: 05/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/926,763

Applicant(s)

CROTEAU ET AL.

Examiner

Milton Nelson, Jr.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 14-17 and 27-29 is/are rejected.
- 7) ☒ Claim(s) 5-13, 19-26, 30 and 31 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The information referred to in the information disclosure statement file March 22, 2002 has been considered.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "100a", "100b" and "100c". A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 5-13, 18-26, 30 and 31 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, claims 5-13, 18-26, 30 and 31 have not been further treated on the merits.

Claim Rejections - 35 USC § 112

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 14-17 and 27-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the downward load of a person's trunk" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the area of the buttocks" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the sit bones" in lines 4 to 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the floor" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the lesser of" in lines 2 to 3. There is insufficient antecedent basis for this limitation in the claim. It is also not clear what is being set forth by the recitation.

Lines 4-6 of claim 4 are indefinite since Applicant defines the invention relative to a variable (a person) that is infinitely broad. A structural feature of the invention should be defined relative to other structural features of the invention. Similarly note claim 17.

Claim 14 recites the limitation "the downward load of a person's trunk" in line 3. There is insufficient antecedent basis for this limitation in the claim.

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Claim 14 recites the limitation "the sit bones" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitation "the floor" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Line 2 of claim 28 is grammatically vague. Note the recitation "the from the person which".

In lines 4 and 5 of claim 28, it is unclear if "a person's" is intended to be the same as the previously set forth "the person".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 14-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tholkes (5054852).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tholkes (5054852). Tholkes clearly presents all claimed structural features of the instant invention. Tholkes lacks only the specifically claimed method of constructing steps of the instant invention. It would have been obvious, if not inherent, to one having ordinary skill in the art at the time of the instant invention to construct the chair of Tholkes by the claimed method of construction steps. Constructing the chair of Tholkes by the claimed method provides efficient, safe and easy steps for providing a chair.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is 7033082117. The examiner can normally be reached on Monday-Friday 5:30-3:00.

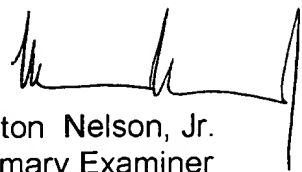
The fax phone numbers for the organization where this application or proceeding is assigned are 7033053597 for regular communications and 7033053597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 7033082168.

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A handwritten signature in black ink, appearing to read 'Milton Nelson, Jr.', with a stylized, elongated horizontal stroke and a vertical line at the end.

Milton Nelson, Jr.
Primary Examiner
Art Unit 3636

mn
April 29, 2003